CrR 1. SCOPE

These local rules supplement the Federal Rules of Criminal Procedure (Fed.R.Crim.P.) as to local procedures; they are effective July 1, 1997; they are designated as CrR, numbered to correspond, where possible, with rules having similar subject matter as the Fed.R.Crim.P.; and they, along with the local general rules (GR), civil rules (CR), and magistrate judges' rules (MJR), may be cited as "Local Rules, W.D.Wash." The local rules of general application (GR) apply to criminal matters; the local magistrate judges' rules (MJR) contain many provisions relating to criminal matters; and the following local civil rules, CR, apply to criminal matters:

CR 5(a)(2)	Filing pleadings, motions and other papers--service on the court by filing duplicate copy;
CR 5(b)	Manner of Service;
CR 5(f)	Proof of Service;
CR 6(e)	Motions to Shorten Time for Placing a Motion on the Court's Motion Calendar;
CR 10	Form of Pleadings (and FAX filing);
CR 79(f)	Files-Custody and Withdrawal; and
CR 79(g)	Custody and Disposition of Exhibits, Depositions.

[Effective July 1, 1997.]

CrR 2. PURPOSE AND CONSTRUCTION

These local rules are intended to set out local procedures consistent with Fed.R.Crim.P. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Terms used herein (such as "magistrate judge") shall have the same designated meanings as set out in Rule 54(c), Fed.R.Crim.P.

[Effective July 1, 1997.]

CrR 3. THE COMPLAINT [RESERVED]

[Effective July 1, 1997.]

CrR 4. ARREST WARRANT OR SUMMONS UPON COMPLAINT [RESERVED]

[Effective July 1, 1997.]

CrR 5. INITIAL APPEARANCE BEFORE THE MAGISTRATE JUDGE

(a) In General.

(1) *Notice of Arrest.* Any agency or person who holds any person in this district on federal criminal charges shall so advise the U.S. Marshal without unnecessary delay. Except with respect to federal parole violations, after receiving notice or other knowledge during business hours of any such federal arrestee or person held on federal charges anywhere in the district, the marshal shall give telephonic notice without unnecessary delay of the date of federal arrest or custody to the courtroom deputy or other designated staff member for the appropriate magistrate judge who will conduct the initial appearance;

(A) After receiving notice from the U.S. Marshal, the courtroom deputy or other designated staff member for the appropriate magistrate judge shall give telephonic notice without unnecessary delay to:

i. The U.S. Attorney's Office general crimes unit supervisor for all cases;

ii. During business hours, the U.S. Pretrial Services Office.

Like notice, during business hours, shall also be given by the courtroom deputy or other designated staff member to the U.S. Probation Office duty officer as to any probation, supervised release, or parole violators.

(2) *Arrest Without Warrant--48 Hour Rule.* Whenever an arrest without warrant occurs and the initial appearance will not be or is likely not to be held within 48 hours of arrest (because of the weekend or holidays or unavailability of an appropriate magistrate judge):

(A) A complaint and affidavit will be prepared and presented within 48 hours after the arrest to the appropriate magistrate judge at said judge's home or as directed by said judge. If probable cause is found, an order so finding shall be signed and defendant shall be ordered held pending the initial appearance as promptly as that hearing can be scheduled during court hours or as otherwise ordered.

(B) The initial contact with the appropriate magistrate judge shall be made by the United States Attorney or an authorized assistant who shall have either previously prepared or reviewed and approved the form and content of the complaint and affidavit.

(3) [Reserved]

(4) *Appropriate Magistrate Judge.*

The "appropriate magistrate judge" is the United States magistrate judge who would normally be expected to conduct the initial appearance; or if unavailable, any available United States magistrate judge; or if unavailable, any other magistrate judge as defined in Rule 54(c), Fed.R.Crim.P.

(b) and (c) [Reserved]

(d) Appearance of Counsel.

(1) *Appearance Prior to Arraignment.* Any appearance in court prior to arraignment obligates counsel to handle all matters up to, and to appear at, arraignment, unless relieved of said obligation as provided for in paragraphs (3) and (4). (See Local Rules, W.D.Wash., GR 2(d) re: appearances by non-W.D.Wash. attorneys.)

(2) *Appearance at Arraignment.* At arraignment, a counsel who has previously appeared may orally withdraw, and arraignment may be continued for up to two (2) weeks to allow defendant to obtain counsel. Any counsel appearing at arraignment may request up to two (2) weeks to finalize a representation agreement with defendant, and the arraignment shall be so continued. Counsel may thereafter be relieved of responsibility by filing, prior to the continued arraignment hearing and after service on defendant and the U.S. Attorney's Office, a written notice of non-representation, without the necessity of counsel appearing at said hearing; or by appearing and orally stating so on the record. Defendant must be present in all instances. Further continuances of arraignment to finalize representation may be made only upon a proper showing and by order of the judge or magistrate judge before whom the matter is pending upon due consideration of Speedy Trial rights, including the discovery, motions and trial dates, the situation with respect to any co-defendants, right-to-counsel rights, and other relevant considerations. Counsel representing a defendant when arraigned or rearraigned is obligated to handle, in the district court, all matters charged at that arraignment or rearraignment.

(3) *Stand-In Appearance.* With the agreement of defendant on the record in open court, and with court approval, another attorney may appear for defense counsel.

(4) *Relief From Representation.* Counsel may be relieved:

(A) With the approval of the judge or magistrate judge before whom the matter is pending, endorsed upon a stipulation of substitution submitted ex parte and signed by counsel, substitute counsel, and defendant; or

(B) By an order of the judge or magistrate judge before whom the matter is pending, granting counsel's written motion for withdrawal, served, filed and noted for consideration as required under Local Rule CrR 12, with the additional requirement of service upon the defendant; or

(C) By an order appointing other counsel after review of a financial affidavit

submitted by defendant pursuant to 18 U.S.C. § 3006A.

The Clerk's Office shall provide to counsel, substitute counsel, the U.S. Attorney's Office, and, when appropriate, the defendant, copies of approved stipulations, orders allowing withdrawal, and orders appointing counsel.

(e) Release From Custody--Bail/Detention.

(1) On federal criminal charges--See Local Rule CrR 46.

(2) On Probation and Supervised Release violations--See Rules 32.1(a)(1) and 46(c), Fed.R.Crim.P.

[Effective May 1, 1992; amended effective July 1, 1997; January 1, 2005.]

CrR 5.1 PRELIMINARY EXAMINATION

(a) and (b) [Reserved].

(c) Records.

(1) *Copies of Preliminary Examination Tape(s).* Unless ordered sealed by court order, a copy of the preliminary examination tape(s) may be obtained from the Clerk's Office and will, whenever possible, be provided within three (3) working days of the request. A court appointed attorney for a defendant and the attorney for the government may obtain a copy free; all others must pay the prevailing rate per tape (as set by the Judicial Conference).

(2) *Original Preliminary Examination Tape(s).* The original preliminary examination tape(s) shall remain in the custody of the Clerk's Office under the control of the court, subject to the Clerk's established procedures for storage of records and retention. The tapes may be made available at further hearings or for other purposes, upon application to the court specifying the necessity.

(3) *Transcripts.* Anyone seeking preparation of transcripts at government expense shall apply to the court or a judge thereof, and shall state specifically why the access to the recording is insufficient for the party's needs.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 6. THE GRAND JURY

(a) to (g) [Reserved].

(h) Grand Jury Practice.

(1) Motions practice in connection with Grand Jury proceedings and process issued in aid of such proceedings shall be accorded the secrecy protections as set forth in Fed.R.Crim.P. 6(e).

(2) The Clerk's office shall accept for filing under seal without the need for further judicial authorization all motions and accompanying papers designated by counsel as related to Grand Jury matters.

(3) Such motions shall be assigned Grand Jury cause numbers if not otherwise related to pending criminal cases and will be decided by the judge of this court assigned by the Chief Judge to hear Grand Jury matters.

(4) In all other respects, the pleadings shall conform to Local Rule CrR 12(c).

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 7. THE INDICTMENT AND THE INFORMATION [RESERVED]

[Effective July 1, 1997.]

CrR 8. JOINDER OF OFFENSES AND DEFENDANTS [RESERVED]

[Effective July 1, 1997.]

CrR 9. WARRANT OR SUMMONS ON INDICTMENT OF INFORMATION [RESERVED]

[Effective July 1, 1997.]

CrR 10. ARRAIGNMENT

Arraignments are generally conducted by a magistrate judge. A trial date, based upon the requirements of the Speedy Trial Act (18 U.S.C. §§ 3161 et seq.), will usually be set at the time the arraignment is first scheduled. Requests for change of a trial date should be addressed to the judge assigned to the case.

See Local Rules W.D.Wash., CrR 5(d)(2)-(4) regarding appearance of counsel at arraignment; and CrR 18 regarding the place of trial and assignment of cases.

[Effective July 1, 1997.]

CrR 11. PLEAS

(a) through (d) [Reserved].

(e) Plea Agreement Procedure.

(1) *In General.* Without court approval, plea agreements in felony cases shall be in writing and signed by the defendant, the defendant's attorney and the attorney for the government. Unless otherwise ordered, all felony plea agreements shall set forth a factual basis for the plea.

(f) to (h) [Reserved].

(i) Felony Pleas Before Magistrate Judges. The full-time magistrate judges in this district are authorized to accept waivers of indictment and guilty pleas in felony cases with the consent of the defendant, the defendant's attorney, and the United States, and to order a presentence investigation report concerning any defendant who pleads guilty to felony charges (Rules 7(b), 11(a), and 32(c), Fed.R.Crim.P.). In such cases, the United States magistrate judge may conduct the proceedings required by Rule 11, Fed.R.Crim.P., and, if the plea is accepted, order a presentence investigation report pursuant to Rule 32, Fed.R.Crim.P.

If the magistrate judge accepts the plea, the United States magistrate judge shall file a report and recommendation with the district judge to whom the case has been assigned. A copy of such report and recommendation shall be served on all parties. Within ten (10) days after such service, any party may file and serve written objections thereto, and any party desiring to oppose such objections shall have five (5) days thereafter within which to file and serve a written response. The district judge may accept, reject, or modify, in whole or in part, the report and recommendation of the magistrate judge. Sentencing shall take place before the district judge to whom the case has been assigned. This rule in no way precludes any district judge from reserving the function of conducting the proceedings required by Rule 11 in any/all case(s) assigned to the district judge.

[Effective July 1, 1997.]

CrR 12. PLEADINGS AND MOTIONS BEFORE TRIAL

(a) and (b) [Reserved].

(c) Motion Date and Procedure.

(1) *Time for Motions.* At the time of arraignment the court shall set a date for the filing of pretrial motions. No motion may be filed subsequent to that date except upon leave of court for good cause shown. If arraignment is postponed at the request of the defendant, the deadline for filing and service or pretrial motions shall be three weeks from the date originally set for arraignment, unless the court otherwise orders. In the event superseding charges are filed, counsel for defendant may apply to the district judge or to the magistrate judge for additional time to file pretrial motions. Such application shall be made on or before the date initially set for arraignment on the superseding charges.

(2) *Obligations of Movant.* The moving party shall serve the motion, a supporting brief, and a proposed order on each party that has appeared in the action, and shall lodge the proposed order and file the motion and brief with the clerk. The moving party shall also note the motion, as prescribed in subsection (7) hereof. If the motion requires the consideration of facts not appearing of record, the movant shall also serve and file copies of all affidavits and photographic or documentary evidence presented in support of the motion.

(3) *Obligations of Opponent.* Each party opposing the motion shall, within seven calendar days after the filing of a motion, file with the clerk, and serve on each party that has appeared in the action, a brief in opposition to the motion, together with any supporting material as provided in subsection (2) hereof. The time for service and filing of the brief and any other materials in opposition to the motion may be extended by the court or by written stipulation of the parties; however, the parties may not stipulate to a response date later than the noting date.

(4) *Need for Evidentiary Hearing.* Each motion and response shall state whether an evidentiary hearing is necessary.

(5) *Noncompliance.* If a party fails to file the papers required by this rule, or fails to appear on the day appointed for argument or hearing if such be required by the court, such failure may be deemed by the court to be an admission that the motion, or the opposition to the motion, as the case may be, is without merit.

(6) *Length of Briefs.* Supporting and opposition briefs filed in connection with any pretrial motion shall not exceed twelve 8 1/2 by 11 inch pages without prior approval of the court. Any reply brief shall not exceed six 8 1/2 by 11 inch pages without prior approval of the court.

(7) *Noting and Consideration of Motions.* Unless otherwise authorized by the court,

motions shall be noted for consideration for the second Friday after the motion is filed. The motion shall include in its caption (immediately below the title of the motion) a designation of the Friday upon which the motion is to be noted upon the court's motion calendar. A motion may be noted for a Friday which is a holiday. The form shall be as follows:

NOTE ON MOTION CALENDAR: [insert date noted for consideration.]

(8) *Emergency Motions.* Motions to shorten time are abolished. Parties may request a telephonic hearing on a motion, following the procedures established in CR 7(i) of the local civil rules of this court.

(9) *Emergency Motions.* If immediate action is necessary and the judge assigned to the case is unavailable any other judge may hear and dispose of the matter requiring immediate attention, but such action shall not constitute reassignment of the case or proceeding.

(10) *Evidentiary Hearings and Oral Arguments.* Unless otherwise ordered by the court, all motions will be decided by the court without oral argument. A party desiring oral argument shall so indicate by typing ORAL ARGUMENT REQUESTED in the caption of the motion or responsive brief. If the court determines an evidentiary hearing is appropriate or grants a request for oral argument, the clerk will notify the parties of the date and hour thereof. Counsel shall not appear on the date the motion is noted unless so directed by the court.

(11) *Reconsideration of Motions.*

> (A) Standards. Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.
>
> (B) Procedure. A motion for reconsideration shall be plainly labeled as such. The motion shall be noted for consideration on the Friday following the day it is filed. The motion shall point out with specificity the matters which the movant believes were overlooked or misapprehended by the court, any new matters being brought to the court's attention for the first time, and the particular modifications being sought in the court's prior ruling. Failure to comply with this subsection may in itself be grounds for denial of the motion.
>
> (C) Response. No response to a motion for reconsideration shall be filed unless requested by the court. No motion for reconsideration will be granted without such a request. The request will set a time when the response is due, and may limit the response to particular issues or points raised by the motion. A reply may be filed not later than five court days after all responses have been served and

filed or the time for filing responses has expired, whichever is earlier.

(d) through (i) [Reserved].

See Rule CrR 49, Service and Filing of Papers; and see Local Rules W.D.Wash. (Local Civil Rule CR 10, Form of Pleadings).

[Effective May 1, 1992; amended effective July 1, 1997; January 1, 2002.]

CrR 12.1 NOTICE OF ALIBI [RESERVED]

[Effective July 1, 1997.]

CrR 12.2 NOTICE OF INSANITY DEFENSE OR EXPERT TESTIMONY OF DEFENDANT'S MENTAL CONDITION [RESERVED]

[Effective July 1, 1997.]

CrR 12.3 NOTICE OF DEFENSE BASED UPON PUBLIC AUTHORITY [RESERVED]

[Effective July 1, 1997.]

CrR 13. TRIAL TOGETHER OF INDICTMENTS OR INFORMATIONS

(a) Common Questions. When criminal cases involving common questions of law and fact (but not necessarily the same parties) are assigned to different judges, there may be good reason to assign all of said cases to one judge. Such may be assigned to the judge to whom the case bearing the earliest filing number was assigned, at his or her option.

(b) Related Cases. Counsel are encouraged to file a notice of related case in order to bring such cases to the attention of the court. The notice of related case should be filed in the case bearing the earliest filing number and a copy thereof shall be served upon all counsel of record in all such cases.

(c) Consolidation. A motion for consolidation of indictments or informations under Rule 13 of the Fed.R.Crim.P. shall be heard by the judge to whom the case bearing the earliest filing number has been assigned, and in the event consolidation is ordered, the consolidated cases shall be heard by said judge.

[Effective July 1, 1997.]

CrR 14. RELIEF FROM PREJUDICIAL JOINDER [RESERVED]

[Effective July 1, 1997.]

CrR 15. DEPOSITIONS [RESERVED]

[Effective July 1, 1997.]

CrR 16. DISCOVERY AND INSPECTION

The purposes of this Rule are to expedite the transfer of discoverable material contemplated by the Federal Rules of Criminal Procedure between opposing parties in criminal cases and to ensure that pretrial discovery motions to the court are filed only when the discovery procedures outlined herein have failed to result in the exchange of all legitimately discoverable material. It is the intent of the court to encourage complete and open discovery consistent with applicable statutes, case law, and rules of the court at the earliest practicable time. Nothing in this rule should be construed as a limitation on the court's authority to order additional discovery.

(a) Discovery Conference. At every arraignment at which the defendant enters a plea of not guilty, or other time set by the court, the attorney for the defendant shall notify the court and the attorney for the United States, on the record, or thereafter in writing, whether discovery by the defendant is requested. If so requested, within fourteen days after said attorney for the defendant and the attorney for the government shall confer in order to comply with Rule 16, Fed.R.Crim.P., and make available to the opposing party the items in their custody or control or which by due diligence may become known to them. This conference shall be in person. If, however, it is impractical to meet in person, the conference may be conducted via telephone.

(1) *Discovery From the Government.* At the discovery conference the attorney for the government shall comply with the government's obligations under Rule 16 including, but not limited to, the following:

(A) Permit defendant's attorney to inspect and copy or photograph any relevant written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody, or control of the government.

(B) With respect to oral statements made by the defendant whether before or after arrest in response to interrogation by any person then known to the defendant to be a government agent:

(i) Provide that portion of any written record containing the substance of any such relevant oral statement made by the defendant; and

(ii) Provide the substance of any other such relevant oral statement made by the defendant which the government intends to offer in evidence at the trial.

(C) Permit defendant's attorney to inspect and copy or photograph the defendant's Federal Bureau of Investigation Identification Sheet, and any other state, county, or local criminal record information concerning the defendant;

(D) Permit defendant's attorney to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or copies of portions thereof, which are within the possession, custody, or control of the

government, and which are material to the preparation of the defendant's defense or are intended for use by the government as evidence in chief at the trial, or were obtained from or belong to the defendant;

(E) Permit defendant's attorney to inspect and copy or photograph any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are material to the preparation of the defense or are intended for use by the government as evidence in chief at trial;

(F) Permit defendant's attorney to inspect and copy or photograph any relevant recorded testimony of the defendant before the Grand Jury which relates to the offense charged;

(G) Permit defendant's attorney to inspect and copy or photograph any photographs used in any photograph lineup, show up, photo spread, or any other identification proceedings or, if no such photographs can be produced, the government shall notify the defendant's attorney whether any such identification proceeding has taken place and the results thereof;

(H) Permit defendant's attorney to inspect and copy or photograph any search warrants and supporting affidavits which resulted in the seizure of evidence which is intended for use by the government as evidence in chief at trial or which was obtained from, or belongs to, the defendant;

(I) Inform the defendant's attorney whether any physical evidence intended to be offered in the government's case-in-chief, the admissibility of which the defendant may have standing to challenge, was seized by the government pursuant to any exception to the warrant requirement;

(J) Advise whether the defendant was a subject of any electronic eavesdrop, wire tap, or any other interception of wire or oral communications as defined by Title 18, United States Code, Section 2510, et seq., during the course of the investigation of the case;

(K) Advise the attorney for the defendant and provide, if requested, evidence favorable to the defendant and material to the defendant's guilt or punishment to which he is entitled pursuant to *Brady v. Maryland* and *United States v. Agurs;* and

(L) Advise the attorney for the defendant whether or not the government will provide a list of the names and addresses of the witnesses whom it intends to call in its case-in-chief at trial.

The attorney for the government is not required, however, to produce any statements of witnesses which fall within the purview of Section 3500 of Title 18,

United States Code and Rule 26.2, Fed.R.Crim.P., until such time as required under those provisions.

(2) *Discovery From Defendant.* At the discovery conference, the defendant's attorney shall:

(A) Permit the attorney for the government to inspect and copy or photograph all books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in chief at the trial;

(B) Permit the attorney for the government to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in chief at trial or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to that witness' testimony;

(C) Inform the attorney for the government, in writing, if requested, whether the nature of the defense is alibi. If a defendant intends to rely on the defense of alibi, and the attorney for the government has made the demand outlined in Rule 12.1(a), Fed.R.Crim.P., at least ten days before the pretrial conference, the attorney for the defendant shall disclose the substance of any alibi intended to be presented by the defendant and state the specific place or places at which the defendant claims to have been at the time of the alleged offense, and the names and addresses of the witnesses upon whom the defendant intends to rely to establish such alibi as required by Rule 12.1, within ten days thereafter, but in no event less than ten days before trial, unless the court otherwise directs. The attorney for the government shall serve upon the defendant's attorney a written notice stating the names and addresses of the witnesses upon whom the government intends to rely to establish the defendant's presence at the scene of the alleged offense and any other witnesses to be relied on to rebut testimony of any of the defendant's alibi witnesses.

(D) Inform the attorney for the government whether the nature of the defense is insanity. If a defendant intends to rely upon the defense of insanity at the time of the alleged crime or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the mental state required for the offense charged, he shall give written notice thereof to the government and file a copy of such notice with the clerk.

(E) Advise the attorney for the government whether or not the defendant will provide the names and addresses of the witnesses whom the defense intends to call in its case-in-chief at trial.

(b) Entrapment Defenses and the Discovery of Other Crimes, Wrongs, or Acts Admissible Pursuant to Rule 404(b), Fed.R.Evid. In addition to the requirements of FRE 404(b), if, during the discovery conference or thereafter, the attorney for the defendant advises the attorney for the government that the defense is one of entrapment and provides a synopsis of the evidence of that defense, the attorney for the government shall, within five days or two weeks prior to trial, whichever is later, disclose a synopsis of any other crimes, wrongs, or acts about which the government has information and which is relevant to said defense and intended for use by the government in its case-in-chief or in rebuttal.

(c) Items Not Subject to Disclosure. This rule does not authorize the discovery or inspection of reports, memoranda, or other internal defense documents made by the defendant or the defendant's attorney or agents in connection with the investigation or defense of the case, or of statements made by prospective government or defense witnesses, to the defendant, the defendant's agents, or attorneys.

(d) Continuing Duty to Disclose. If, prior to or during trial, any party discovers additional evidence not previously disclosed which is subject to discovery or inspection under this rule, such party shall promptly notify that other party's attorney of the existence of additional evidence or material.

(e) Declination of Disclosure. If, in the judgment of the attorney for the government or of the defendant's attorney, it would not be in the interest of justice to make any one or more of the disclosures set forth in the subsections of this rule, disclosure may be declined. A declination of any requested disclosure shall be in writing, directed to opposing counsel. In the event either the attorney for the government or attorney for the defendant declines to provide the names and addresses of witnesses, such a declination shall, in addition, state the particular reasons for the declination. The declination shall be served on opposing counsel and a copy filed with the court at least five days before the pretrial motions deadline.

(f) Statements of Witnesses. Statements of witnesses, including material covered by Rule 26.2, Fed.R.Crim.P., Title 18, United States Code, Section 3500, and Rule 6 of the Federal Rules of Criminal Procedure, are to be exchanged:

1. During the time of trial as provided by Rule 26.2, Fed.R.Crim.P., and 18 U.S.C. § 3500; or

2. At any time if the parties agree; and

3. Production of statements of witnesses at a hearing on a motion to suppress evidence will be governed by Rule 12(i), Fed.R.Crim.P.

(g) Exchange of Exhibit Lists. No later than seven days before trial, the parties shall exchange a list of exhibits which they intend to introduce during the presentation of their respective cases-in-chief.

(h) Further Discovery or Inspection. If discovery or inspection beyond that provided for above is sought by either counsel, the attorney for the government and the defendant's attorney shall confer with a view toward satisfying these requests in a cooperative atmosphere without recourse to the court. The request for further discovery may be oral or written and the response shall be a like manner. Only in the event that either party's request for any discovery or inspection cannot be satisfied without recourse to the court may either party move for additional discovery or inspection.

Any motion for further discovery or inspection shall be filed in compliance with these Local Criminal Rules.

(i) Certification of Compliance With This Rule. All motions for discovery or inspection shall contain a certification that counsel have engaged in a discovery conference and discussed the subject matter of each motion and have been unable to reach agreement of the resolution of the issues. The certification for the motion shall set forth: (1) The statement that the prescribed conference was held; (2) the date of the conference; (3) the names of the parties who attended the conference; and (4) the matters which are in dispute and which require the determination of the court.

The filing of any such motion for further discovery or inspection which does not include the required certification may result in summary denial of the motion or other sanctions in the discretion of the court.

(j) Modification of Time Periods. All time periods set forth in this Rule may be modified by written agreement by the defendant's attorney and the attorney for the government or by order of the court.

(k) Other Pretrial Motions. Except for discovery motions covered by this order, all other pretrial motions shall be filed in accordance with the Fed.R.Crim.P. and the Local Rules W.D.Wash. which are in effect at the time the pretrial motions are filed.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 17. SUBPOENA (OBTAINING THE PRESENCE OF WITNESSES)

(a) [Reserved].

(b) Defendants Unable to Pay.

(1) *Payment of Witnesses.* The United States Marshal shall pay witness costs and fees incurred pursuant to Rule 17(b), Fed.R.Crim.P., and sub-section (2) below.

(2) *In-District Services.* By presenting a copy of the order of appointment to the U.S. Marshal's Office, a court-appointed attorney may:

A. Have in-district witnesses served by the United States Marshal; and

B. Have in-district witnesses paid attendance fees when also providing the documentation required by the U.S. Marshal's Office.

(3) *Other Costs.* To be allowable, any other costs or fees for defendants unable to pay must be authorized by court order pursuant to Rule 17(b), Fed.R.Crim.P. Service of any out-of-district subpoenas issued pursuant to this subsection is to be done by the U.S. Marshal unless otherwise ordered by the Court. Ex parte applications and orders thereon may be filed and maintained under seal until the witnesses have testified.

(4) *Non-disclosure of Witnesses.* Except as authorized by the court-appointed attorney or defendant found financially unable to pay, the United States Marshal shall not disclose the name and address of persons served pursuant to this rule; and returns of service on such witnesses are to be filed and maintained under seal until the witnesses have testified.

(c) through (h) [Reserved].

(i) Subpoena Alternatives. See MJR 1(b) which authorizes magistrate judges to issue writs of habeas corpus ad testificandum and other orders or warrants to obtain the presence of witnesses.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 17.1 PRETRIAL AND STATUS CONFERENCES

(a) Policy and Procedure. Either party may request that the court schedule a pretrial or status conference with the trial judge prior to trial. The purpose of such conference or conferences shall be to address outstanding motions, the status of discovery, scheduling, and such other matters as may be appropriate. The parties are encouraged to utilize status and pretrial conferences in complex criminal cases.

(b) Recordation. All pretrial and status conferences in felony cases shall be recorded unless otherwise ordered by the court.

(c) Presence of Defendant. A defendant's presence at a pretrial or status conference shall be required unless:

(1) Presence is not required under Rule 43, Fed.R.Crim.P.; or

(2) Defendant waives presence in writing with approval of the court.

[Effective July 1, 1997.]

CrR 17.2 SETTLEMENT CONFERENCES

(a) Policy. It is the policy of the court to facilitate efforts to settle criminal cases, when requested to do so by the parties. Participation in a settlement conference is entirely voluntary, however. A party's declination to participate in the settlement conference process shall in no way be used against that party at any stage of the proceeding.

(b) Role of Settlement Judge. The role of the settlement judge shall be limited to facilitating a voluntary settlement between parties in criminal cases. The settlement judge shall not preside over any aspect of the case, other than facilitation of a voluntary settlement according to this Rule. The settlement judge shall not take a guilty plea from nor sentence any defendant in the case. He or she shall not communicate anything regarding the status or substance of the settlement discussions to the trial judge, except to notify the judge of a settlement.

(c) Request for Settlement Conference. A request for a settlement conference may be initiated by the parties. The trial judge shall determine whether such conference shall be held. Not all defendants in a multi-defendant case need join in the request or in the conference.

(d) Assignment of Settlement Judge. The trial judge shall select a district or magistrate judge to act as settlement judge after considering recommendations of the parties. Any party may withdraw from a settlement conference unilaterally at any time.

(e) Conduct of the Conference.

(1) *Availability of Defendant.* The settlement judge shall determine a course of procedure for settlement discussions as he or she may determine to be best. The participation by the defendant shall be determined by the settlement judge.

(2) *Authority of Government Attorney to Reach Disposition.* The government attorney participating in settlement discussions shall either have authority to agree to a disposition of the case or shall have the ability to obtain such authority from a supervisory or other government attorney upon telephone notice.

(f) Proceedings Privileged. Proceedings of settlement conferences shall in all respects be privileged and not reported or recorded. No statement made by any participant at the settlement conference shall be admissible at the trial of any defendant in the case or be considered for any purpose in the sentencing of any defendant in a case. No statement made by a defendant in the course of a settlement conference shall be reported to the counsel for the government.

[Effective July 1, 1997.]

CrR 18. PLACE OF PROSECUTION AND TRIAL (ASSIGNMENT OF CASES)

Cases involving federal felonies committed in the Western District of Washington's six (6) "Seattle" counties (Island, King, San Juan, Skagit, Snohomish and Whatcom), in the absence of a court order directing otherwise, shall be assigned equally among the active Seattle district judges; and those in the other thirteen (13) "Tacoma" counties shall likewise be assigned equally among the active Tacoma district judges. In cases involving multiple felony charges committed in both "Seattle" and "Tacoma" counties, the U.S. Attorney's Office may designate the case as a Seattle or Tacoma case, subject to reassignment upon motion of a defendant, or upon the court's own motion, based upon the convenience of the defendant(s) and the witnesses, and the prompt administration of justice.

The above shall also apply to all proceedings before U.S. district judges in cases involving misdemeanors, including petty offenses and infractions.

Assignments are subject to such changes as may be established by the chief judge for the purposes of equalization of case assignments to all active judges of the district.

The place of trial shall be the courtroom regularly assigned to the judge handling the case, unless otherwise ordered. A party wishing trial at some other place within the district or elsewhere shall move for the same within the time allowed for filing pretrial motions under these rules.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 19. [RULE RESCINDED]

[Effective July 1, 1997.]

CrR 20. TRANSFER FROM THE DISTRICT FOR PLEA AND SENTENCE [RESERVED]

[Effective July 1, 1997.]

CrR 21. TRANSFER FROM THE DISTRICT FOR TRIAL [RESERVED]

[Effective July 1, 1997.]

CrR 22. TIME OF MOTION TO TRANSFER

A motion for change of venue under Rule 21, Fed.R.Crim.P., shall be made within the time allowed for filing pretrial motions under these rules.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 23. TRIAL BY JURY OR THE COURT [RESERVED]

[Effective July 1, 1997.]

CrR 23.1 TRIAL BRIEF

Each party shall serve and file a trial brief discussing matters of substantive law involved in the trial and important or unusual evidentiary matters at least two days prior to the trial date.

[Effective July 1, 1997.]

CrR 24. TRIAL JURORS

(a) Examination. Each party shall prepare any suggested questions which he desires the court to propound to the jurors, which shall be served and filed two days before the trial date.

(b) through (c) [Reserved].

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 25. JUDGE; DISABILITY [RESERVED]

[Effective July 1, 1997.]

CrR 26. TAKING OF TESTIMONY (AND EXHIBIT HANDLING)

(a) Procedure at Trial.

(1) In the trial the United States shall open the cause by stating generally what it expects to prove. Each defendant may either then, or after the United States has closed its evidence in chief, state generally what he expects to prove. After all the evidence on each side is in, the United States may argue the cause to the court or jury, as the case may be, and shall, during such argument, state fully all of its points and refer to all of its authorities, or be precluded from a reply. Each defendant may then argue his case, and the United States may close.

(2) Unless otherwise permitted by the court, counsel shall conduct the examination of witnesses and argument to the court or jury from the lectern, and counsel shall rise upon making objections or otherwise addressing the court.

(b) Examination of Witnesses. On the trial of an issue of fact, only one attorney for each party shall examine or cross-examine any witness unless otherwise ordered by the court.

(c) Expert Witnesses. Except as otherwise ordered by the court, a party shall not be permitted to call more than one expert witness on any subject.

(d) Attorney as Witness. If an attorney or any party be examined as a witness on behalf of a party he represents and give testimony on the merits, he shall not argue the merits of the cause, either to the court or jury, except by the consent of the opposite party and the permission of the court.

(e) Custody and Disposition of Exhibits. See Rule CR 79(g) (Local Civil Rule).

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 26.1 DETERMINATION OF FOREIGN LAW [RESERVED]

[Effective July 1, 1997.]

CrR 26.2 PRODUCTION OF WITNESS STATEMENTS [RESERVED]

See Local Rules W.D.Wash., CrR 16(f).

[Effective July 1, 1997.]

CrR 26.3 MISTRIAL [RESERVED]

[Effective July 1, 1997.]

CrR 27. PROOF OF OFFICIAL RECORD [RESERVED]

[Effective July 1, 1997.]

CrR 28. INTERPRETERS [RESERVED]

[Effective July 1, 1997.]

CrR 29. MOTION FOR JUDGMENT OF ACQUITTAL [RESERVED]

[Effective July 1, 1997.]

CrR 30. JURY INSTRUCTIONS

(a) Proposed Instructions Required. Unless otherwise ordered by the court, each party shall file and serve proposed jury instructions.

(b) Format. Each proposed instruction shall be headed with the caption, "Instruction No. ____," permitting the court to fill in the instruction number as required. One set of copies of the proposed instructions shall bear no other caption, and shall include no citations of authority. The original set and all other copies, however, shall comply with the following additional requirements. Each shall be numbered consecutively as "Plaintiff's (or Government's or Defendant's) proposed Instruction No. (fill in number);" and each shall reflect, at the foot of the page, any supporting authority for the instruction.

(c) Filing and Service. Unless otherwise ordered, proposed jury instructions shall be filed and served two days before the trial date. Each party has the right to propose additional or modified instructions during the course of the trial. All proposed instructions must be served on all parties, and the original and three copies (one without citations) filed with the clerk.

(d) Reading Instructions Prior to Argument. The court will normally read instructions to the jury after the close of evidence and prior to argument.

(e) Copy of Instructions for Jury Use. A written set of the court's instructions shall be given to the jury when they retire to deliberate their verdict.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 31. VERDICT

(a) through (e) [Reserved].

(f) Receiving the Verdict. Upon receiving the verdict of the jury, one attorney for each party and the defendant or defendants shall be present, except as provided in Rule 43(b), Fed.R.Crim.P.

(g) Contacting Jurors After Trial (Verdict). Counsel shall not contact or interview jurors, or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the court; except that in cases involving a hung jury as to one or more counts, counsel may contact and/or interview jurors.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 32. SENTENCE AND JUDGMENT

(a) [Reserved].

(b) Presentence Investigation and Report.

(1) *When Made.* If a defendant desires preparation of a presentence report and its review by the court prior to entry of a guilty plea or acceptance of a plea agreement by the court, he shall obtain from the clerk request and waiver forms and execute the same.

(2) through (6) [Reserved].

(7) *Confidentiality.* Each copy of a probation department presentence report which this court has or does make available to the United States Parole Commission, the Bureau of Prisons, the United States Sentencing Commission or any other agency for any reason whatever constitutes a confidential court document and shall be presumed to remain under the continuing control of the court during the time that such presentence report is in the temporary custody of any of those agencies. Such copy of the presentence report shall be loaned to such agency, the Parole Commission, and the Bureau of Prisons only for the purpose of enabling those agencies to carry out their official functions, including parole release and supervision, and shall be returned to this court after such use, or earlier upon the request of this court.

(c) Sentence.

(1) *Sentencing Hearing.*

(A) Section 5K1.1 Motions. If the government intends to file a § 5K1.1 motion for substantial assistance, the motion must be served on all counsel and filed under seal fourteen (14) days prior to sentencing. In such event, the government must also serve and file under seal a written statement of the nature and extent of the defendant's cooperation. Any motion under § 5K1.1 and the supporting written statement must also be provided to the probation officer who has prepared the presentence report. If the government files a § 5K1.1 motion requesting that the court depart from the Guidelines, the defendant may file, in response, his or her version of the defendant's cooperation. Any such response by the defendant must be filed at least four (4) court days prior to sentencing and may be included in the defendant's sentencing memorandum. A duplicate copy of all pleadings shall also be filed for the sentencing judge.

(B) Continuance of Sentencing Date. The sentencing court may continue the sentencing date on its own motion; or upon a telephonic request of a party or the U.S. Probation Office through the judge's courtroom clerk based on the need for more time. A party or a U.S. Probation Officer seeking a continuance should be in a position to advise the courtroom clerk as to whether or not the request is

opposed by any party or by the U.S. Probation Office.

(C) Acceptance of Responsibility. In the event that a defendant wishes to provide a written statement accepting responsibility, the statement should be signed by the defendant. The original should be provided to the U.S. Probation Office with a copy to the United States Attorney at least fourteen (14) days prior to sentencing.

(D) Sentencing Memorandum. Counsel for the United States or for a defendant shall serve copies of any sentencing memorandum or related documents upon the opposing party and upon the U.S. Probation Office at least four (4) court days prior to sentencing.

(E) Evidentiary Hearing. At least four court days prior to the sentencing hearing, counsel shall inform the probation officer and Clerk's Office whether or not an evidentiary hearing will be necessary at the sentencing and, if so, whether witnesses will be called, who they will be, and an estimated length of the hearing.

(2) through (5) [Reserved].

(d) through (f) [Reserved].

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 32.1 REVOCATION OR MODIFICATION OF PROBATION OR SUPERVISED RELEASE

A magistrate judge shall conduct all probation or supervised release revocation proceedings as to a defendant originally sentenced by a magistrate judge. In revocation proceedings relating to defendants sentenced by a district judge, initial appearances and any preliminary hearings shall be conducted by a magistrate judge, unless otherwise ordered by a district judge; and with the consent of the defendant and to the extent consistent with applicable law, any evidentiary hearing shall be conducted by a magistrate judge, unless otherwise ordered by a district judge. Not more than ten (10) days after any such evidentiary hearing, the magistrate judge shall submit to and file with the district court, proposed findings of fact, a copy of which shall be promptly provided to all the parties. Said submission shall include a listing of all the alleged violations that were found to be established by a preponderance of the evidence, and all the alleged violations that were not so established; and may include comments and/or recommendations as to disposition. Within ten (10) days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations. The district court judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or resubmit the matter to the magistrate judge with instructions.

[Effective July 1, 1997.]

CrR 33. NEW TRIAL [RESERVED]

[Effective July 1, 1997.]

CrR 34. ARREST OF JUDGMENT [RESERVED]

[Effective July 1, 1997.]

CrR 35. CORRECTION OR REDUCTION OF SENTENCE [RESERVED]

[Effective July 1, 1997.]

CrR 36. CLERICAL MISTAKES [RESERVED]

[Effective July 1, 1997.]

CrR 38. STAY OF EXECUTION [RESERVED]

[Effective July 1, 1997.]

CrR 40. COMMITMENT TO ANOTHER DISTRICT [RESERVED]

[Effective July 1, 1997.]

CrR 41. SEARCH AND SEIZURE

(a) and (b) [Reserved].

(c) Telephonic Search Warrant Applications. Telephonic search warrant applications may be made to a full-time magistrate judge unless otherwise ordered by a United States district judge of this district. One magistrate judge shall be designated at all times, on a rotating basis, to receive warrant applications. Whenever possible, the magistrate judge shall have voice recording equipment available to record all telephonic applications for search warrants.

(1) A telephonic application for a search warrant shall be made with the prior approval of the U.S. Attorney, or an assistant U.S. Attorney, for this district. Whenever possible:

(A) The application shall be made by conference call in which both a law enforcement agent and an assistant U.S. Attorney are able to converse with the magistrate judge.

(B) Prior to calling the magistrate judge, the law enforcement agent and the assistant U.S. Attorney shall have agreed to a form of affidavit which can be read to the magistrate judge verbatim insofar as circumstances permit.

(2) The magistrate judge must decide whether it is reasonable to dispose with a written affidavit before authorizing a telephonic search warrant application. Among the factors the magistrate judge may consider in making this determination are:

(A) Whether the agent can appear before the magistrate judge during regular court hours;

(B) Whether the agent requesting a search warrant is a significant distance from the magistrate judge;

(C) Whether the factual situation is such that it would be unreasonable for a substitute agent, who is located near the magistrate judge, to present a written affidavit in person to the magistrate judge in lieu of proceeding with a telephonic application; and,

(D) The possibility that if a search warrant were not issued pursuant to the telephone application, there would be a significant risk that evidence would be destroyed.

(3) On the first day following the issuance of a search warrant based on a telephonic application, the magistrate judge shall have a duplicate tape made of the application, furnish that tape to the U.S. Attorney's Office who shall cause a transcription of the tape to be made and returned to the magistrate judge.

(4) Deviation from the procedures set forth in this rule may be grounds for the magistrate judge to refuse a warrant application, but shall not necessarily be grounds for a motion to suppress evidence which has been seized.

(d) through (h) [Reserved].

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 42. CRIMINAL CONTEMPT [RESERVED]

[Effective July 1, 1997.]

CrR 43. PRESENCE OF DEFENDANT [RESERVED]

[Effective July 1, 1997.]

CrR 44. RIGHT TO AND ASSIGNMENT OF COUNSEL

(a) through (c) [Reserved].

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 44.1 LEGAL INTERNS

See General Rule 2(h).

[Effective July 1, 1997.]

CrR 45. TIME

(a) Computation. See Rule 45(a), Fed.R.Crim.P. as to when Saturdays, Sundays and legal holidays count.

(b) and (c) [Reserved].

(d) For Motions. See Local Rule CrR 12.

(e) Additional Time After Service by Mail. See Rule 45(e), Fed.R.Crim.P. regarding the effect of service by mail (which can be avoided by using FAX). See Rule CrR 49; and see also Rules CR 5(b) and CR 10(d) (Local Civil Rules.)

For a Time Table of trial events under these local rules, see Appendix A.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 46. RELEASE FROM CUSTODY

(a) Release Prior to Trial.

(1) Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. §§ 3152, 3155), the court authorizes the U.S. Pretrial Services Agency of the Western District of Washington to perform all pretrial services as provided by the Act.

(2) Upon notification that a defendant has been arrested, pretrial service officers will conduct a prerelease interview as soon as practicable, if counsel for defendant consents. Counsel for defendant shall be allowed to be present at any such interview. The judicial officer setting conditions of release or reviewing conditions previously set shall receive and consider reports submitted by pretrial service officers.

(3) Appearance bonds and related documents shall be on such forms as are approved by the court.

(b) through (h) [Reserved].

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 47. MOTIONS

See Rule CrR 12, Pleadings and Motions Before Trial.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 48. DISMISSAL [RESERVED]

[Amended effective July 1, 1997.]

CrR 49. SERVICE AND FILING OF PAPERS

(a) through (e) [Reserved].

In addition to Rule 49, Fed.R.Crim.P., see Local Rules W.D.Wash. (Local Civil Rules):

CR 5(a)(2) Filing pleadings, motions and other papers--service on the court by filing duplicate copy;
CR 5(b) Manner of Service;
CR 5(f) Proof of Service;
CR 10 Form of Pleadings (and FAX filing).

[Effective July 1, 1997.]

CrR 50. CALENDARS; PLAN FOR PROMPT DISPOSITION

(a) [Reserved].

(b) Plans for Achieving Prompt Disposition of Criminal Cases. Copy of Local Plan, effective July 1, 1980, available at Clerk's Office.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 51. EXCEPTIONS UNNECESSARY [RESERVED]

[Effective July 1, 1997.]

CrR 52. HARMLESS ERROR AND PLAIN ERROR [RESERVED]

[Effective July 1, 1997.]

CrR 53. REGULATION OF CONDUCT

(a) Release of Information by Attorneys. It is the duty of the lawyer for the prosecution or for the defense not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

With respect to a pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extra-judicial statement, for dissemination by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway; to describe the general scope of the investigation; to obtain assistance in the apprehension of a suspect; to warn the public of any dangers; or otherwise to aid in the investigation.

From the time of arrest, issuance of an arrest warrant or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extra-judicial statement, for dissemination by any means of public communication, relating to that matter and concerning:

> (1) The prior criminal record (including arrests, indictment, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of any dangers he may present;
>
> (2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal of the accused to make any statement;
>
> (3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
>
> (4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;
>
> (5) The possibility of a plea of guilty to the offense charged or a lesser offense;
>
> (6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer during this period, in the proper discharge of his official or professional obligations, from announcing the fact and circumstances

of arrest (including time and place of arrest, resistance, pursuit, and use of weapons); the identity of the investigating and arresting officer or agency and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extra-judicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the court in the case.

After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extra-judicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

(b) Release of Information by Courthouse Personnel. All courthouse personnel, including among others, court clerks, court reporters, law clerks, secretaries, probation officers, the U.S. Marshal, and deputy marshals, are prohibited from disclosing to any person, without authorization by the court, information relating to a pending criminal case that is not part of the public records of the court. All such personnel are specifically prohibited from divulging information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) Conduct of Proceedings in a Widely Publicized or Sensational Case. In a widely publicized or sensational case likely to receive massive publicity, the court, on its own motion, or on motion of either party, may issue a special order governing such matters as extra-judicial statements by lawyers, parties, witnesses, jurors and court officials likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the court may deem appropriate for inclusion in such an order. Such special order may be addressed to some or all of the following subjects:

(1) A proscription of extra-judicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, which might divulge prejudicial matter not of public record in the case;

(2) Specific directives regarding the clearing of entrances to and hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial so as to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

(3) Specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations;

(4) Sequestration of the jury on motion of either party or the court, without disclosure of the identity of the movant;

(5) Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch be made of any juror within the environs of the court;

(6) Insulation of witnesses from news interviews during the trial period;

(7) Specific provision regarding the seating of spectators and representatives of news media, including:

(A) An order that no member of the public or news media representatives be at any time permitted within the bar railing;

(B) The allocation of seats to news media representatives in cases where there are an excess of requests, taking into account any pooling arrangement that may have been agreed to among the newsmen.

The above list of subjects is not intended to be exhaustive, but is merely illustrative of subject matters which might appropriately be dealt with in such an order.

(d) Pretrial Publicity. Nothing in this rule or any other criminal rule of this court is intended to restrict the media's right to full pretrial coverage of news pursuant to the First Amendment to the United States Constitution. To assure this right, notice of presentation to the court of any motion for an order affecting the news media's right to full pretrial coverage of pending or impending criminal proceedings must be served by movant upon designated representatives of the principal public media at least twenty-four hours prior to presentation. The designated representative or representatives shall have the right to be heard by the court, in open court, at the time the motion is presented.

[Effective May 1, 1992; amended effective July 1, 1997.]

CrR 54. APPLICATION AND EXCEPTION

(a) and (b) [Reserved].

(c) Application of Terms. See Rule 54(c), Fed.R.Crim.P. re definition of "magistrate judge" and other terms. Unless the context indicates otherwise "court" and "judge" refer to the judge or magistrate judge before whom the matter or hearing is pending or has been referred; or who may act in the absence of said judge or magistrate judge.

[Effective July 1, 1997.]

CrR 55. RECORDS

See Rule CR 79(f) (Local Civil Rules), Files--Custody and Withdrawal.

[Effective July 1, 1997.]

CrR 56. COURTS AND CLERKS [RESERVED]

[Effective July 1, 1997.]

CrR 57. RULES BY DISTRICT COURTS

These local rules are intended to comply with Rule 57, Fed.R.Crim.P.

[Effective July 1, 1997.]

CrR 58. PROCEDURES FOR MISDEMEANORS AND OTHER PETTY OFFENSES

(a) Scope. [Reserved].

(b) Pretrial Procedures. All informations, indictments, citations, or other instruments on file with the clerk which charge only misdemeanors (including such cases transferred to this district under Rule 20 of the Federal Rules of Criminal Procedure) shall upon filing with the clerk be designated for proceeding before a magistrate judge. If the defendant does not consent to trial and/or disposition before a magistrate judge, and if such consent is required, the clerk shall reassign the case for trial and/or disposition before a district court judge.

(c) Additional Procedures Applicable Only to Petty Offenses, etc. [Reserved].

(d) Securing the Defendant's Appearance; Payment in Lieu of Appearance.

(1) *Forfeiture of Collateral.* Payment of sums fixed in this court's Schedule of Forfeitable Bail may be accepted in lieu of appearance and as authorizing termination of the proceedings.

Where such proceedings involve a charge of moving traffic violations, the Clerk shall transmit a copy of the charge to the appropriate state's driver licensing authority, and identify it as a record of conviction. A copy of the current "Schedule of Forfeitable Bail and Mandatory Appearances for Misdemeanors and Infractions in the Western District of Washington" is available at the Clerk's Office.

(2) and (3) [Reserved].

(e) and (f) [Reserved].

(g) Appeal.

(1) [Reserved].

(2) *Decision, Order, Judgment or Sentence by a District Judge.*

(A) to (B) [Reserved].

(C) Record--Transcript or Recording of Proceeding Before Magistrate Judge. Where the proceedings before a magistrate judge were tape recorded, that recording will be available for review by the district judge, without further action by the parties. Where either party wishes to have a transcript made from that recording, or where the proceedings were attended by a court reporter, that party shall be responsible for arranging for and paying the costs of the preparation of the transcript. A party who qualifies may obtain authorization for the transcript pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A. Counsel for appellant

shall arrange to have such transcript filed within 21 days after the Notice of Appeal is filed; but upon motion made within such time, the district judge may extend the deadlines for transcript and briefs.

(D) [Reserved].

(E) Briefs. Appellant shall file and serve his brief within 28 days after filing the Notice of Appeal. Appellee shall file and serve his brief in response within 14 days thereafter. Appellant may file and serve a reply brief within seven days thereafter. If appellant is representing himself, he may file a short statement of the issues for the court to consider on appeal, instead of a formal brief.

(F) Oral Argument. The district judge shall have discretion whether to schedule oral argument on an appeal. Any party may request oral argument not later than the deadline for the filing of his initial brief.

(3) [Reserved].

[Effective July 1, 1997.]

APPENDIX A. LOCAL CRIMINAL RULES, WESTERN DISTRICT OF WASHINGTON TIMETABLE-- TRIAL AND SENTENCING EVENTS

EVENT	TIME DATES & LIMITS	RULE
1. Trial Date	Set at arraignment--Speedy Trial Act	CrR 10
2. Discovery Conference	To be held within 14 days after request for discovery, usually within 2 weeks after arraignment	CrR 16(a)
3. Motion Filing Date	Normally set 3 weeks from original arraignment date unless otherwise ordered by court	CrR 12(c)(1)
4. Motion Noting Date (for court consideration)	Second Friday after filing of motion	CrR 12(c)(7)
5. Motion for Shortening Time for Motions to be Heard	Note on calendar not less than 48 hours after filing (service must precede filing)	CrR 12(c)(8), CR 6(e)
6. Motion Response Date	7 days after filing of motion	CrR 12(c)(3)
7. Motion for Reconsideration and Noting Date	No specified time limit on filing for reconsideration--note on first Friday after filing	CrR 12(c)(11)
8. Pretrial and Status Conferences	Upon request of a party and order of the court	CrR 17.1(a)
9. Settlement Conference	Upon request by both sides and order of the court	CrR 17.2(c)
10. Exchange of Exhibit Lists	7 days before trial	CrR 16(g)
11. Trial Brief	2 days before trial	CrR 23.1
12. Voir Dire	2 days before trial	CrR 24

13. Instructions	2 days before trial and during trial	CrR 30©)
14. Witness Statements	After witness has testified at trial or earlier by agreement of parties .	Rule 26.2, Fed.R.Cr-P., and CrR 16(f)
15. Presentence Reports	Furnished by Probation 35 days before sentencing; objections within 14 days of receipt (submit to Probation); submitted to court 7 days before sentencing	Fed.R.Cr.P. Rule 32(b)
16. Sentencing		
§ 5K1.1 Motions	14 days before sentencing	CrR 32(c)(-1)(A)
§ 5K1.1 Motion Response	4 days before sentencing	CrR 32(c)(-1)(A)
Acceptance of Responsibility Statement	14 days before sentencing (submit to Probation)	CrR 32(c)(-1)(C)
Sentencing Memorandum	4 days before sentencing	CrR 32(c)(-1)(D)

[Effective July 1, 1997.]